

The Honorable John C. Coughenour

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DISCOVERY PARK COMMUNITY
ALLIANCE, *et al.*,

Petitioners,

vs.

CITY OF SEATTLE, *et al.*,

Respondents.

No. 2:19-cv-1105-JCC

CITY OF SEATTLE’S AND SEATTLE
SCHOOL DISTRICT NO. 1’S MOTION
TO DISMISS DPCA FOR LACK OF
COUNSEL

NOTE ON MOTION CALENDAR:
Friday, July 24, 2020

I. INTRODUCTION AND RELIEF REQUESTED

Petitioner Discovery Park Community Alliance (“DPCA”) has not been represented by counsel since Petitioners’ second counsel withdrew in February 2020. LCR 83.2(b)(4) requires a business entity to be represented by counsel. Because DPCA’s failure to secure counsel inhibits this case’s resolution, Respondents City of Seattle and Seattle School District No. 1 (known as Seattle Public Schools or “SPS”) respectfully ask the Court to dismiss DPCA, leaving Elizabeth Campbell as the sole Petitioner.

II. FACTS

On September 19, 2019, this Court granted Petitioners’ first counsel’s motion to withdraw. Dkt. # 14. That motion certified counsel had advised DPCA of LCR 83.2(b)(4)—

1 which the motion quoted in bold, underlined font—including that failure to heed the rule could
 2 result in DPCA’s dismissal:

3 Petitioner Discovery Park Community Alliance, a Washington non-profit
 4 corporation, has been advised of the following pursuant to LCR 83.2(b)(4):

5 **(4) A business entity, except a sole proprietorship, must be**
 6 **represented by counsel. If the attorney for a business entity, except a**
 7 **sole proprietorship, is seeking to withdraw, the attorney shall certify**
 8 **to the court that he or she has advised the business entity that it is**
 9 **required by law to be represented by an attorney admitted to practice**
 10 **before this court and that failure to obtain a replacement attorney by**
 11 **the date the withdrawal is effective may result in the dismissal of the**
 12 **business entity’s claims for failure to prosecute and/or entry of default**
 13 **against the business entity as to any claims of other parties.**

14 Dkt. # 12 at p. 2 (emphasis in original).

15 On February 24, 2020, this Court granted Petitioners’ second counsel’s motion to
 16 withdraw. Dkt. # 37. That motion contained the same certification, using the same font,
 17 regarding LCR 83.2(b)(4). Dkt. # 27 at pp. 1–2.

18 Ms. Campbell filed a *Pro Se* Registration Form on March 3, 2020. Dkt. # 38.

19 No counsel has appeared for Petitioners since its second counsel withdrew in February. In
 20 response to this Court’s May 21, 2020, Order (Dkt. # 41), the City and SPS were unable work
 21 with an authorized DPCA representative in formulating the Joint Status Report. *See* Dkt. # 44.

22 **III. ISSUE PRESENTED**

23 Under LCR 83.2(b)(4), a business entity must be represented by counsel. DPCA has
 remained unrepresented by counsel since February. Should this Court dismiss DPCA?

IV. EVIDENCE

The City and SPS rely on the papers on file with this Court.

V. ARGUMENT

This Court should dismiss DPCA for failing to secure counsel. A business entity must be represented by counsel—failure of representation “may result in the dismissal of the business entity’s claims for failure to prosecute.” LCR 83.2(b)(4). DPCA is a business entity twice informed of that requirement—and that this Court could dismiss DPCA for failing to secure representation—by its first two counsel as each sought to withdraw within the first six months of this case. Dkt. # 12 at p. 2; Dkt. # 27 at pp. 1–2. No counsel has appeared for DPCA since February, leaving the City and SPS without an authorized DPCA representative while formulating the Joint Status Report, and leaving this Court with no ability to deal directly with DPCA.

Although community organizations must expend substantial effort to challenge government actions, and although that task is no doubt complicated by the current public health crisis, an entity that starts litigation owes it to the court and other parties to see it through diligently. Because DPCA cannot do that without counsel—and the court and other parties cannot engage with DPCA—this Court should dismiss DPCA with prejudice. *See* Fed. R. Civ. P. 41(b) (dismissal for failure to prosecute or comply with court rules operates as an adjudication on the merits).

//

//

//

//

//

//

VI. CONCLUSION

Because DPCA's failure to heed LCR 83.2(b)(4) inhibits this case's resolution, the City and SPS respectfully ask this Court to dismiss DPCA, allowing Ms. Campbell to proceed as the sole Petitioner.

DATED June 29, 2020.

PETER S. HOLMES
Seattle City Attorney

MCCULLOUGH HILL LEARY, PS

By: /s/ Patrick Downs, WSBA # 25276
/s/ Roger D. Wynne, WSBA #23399
Assistant City Attorneys
Seattle City Attorney's Office
701 Fifth Avenue, Suite 2050
Seattle, WA 98104-7095
Ph: (206) 684-8200
Email: patrick.downs@seattle.gov
roger.wynne@seattle.gov
Attorneys for Respondent City of Seattle

By: /s/ G. Richard Hill, WSBA #8806
/s/ Katie J. Kendall, WSBA #48164
McCullough Hill Leary, PS
701 Fifth Avenue, Suite 6600
Seattle, WA 98104
Ph: (206) 812-3388
Email: rich@mhseattle.com
kkendall@mhseattle.com
Attorneys for Respondent Seattle Public Schools

CERTIFICATE OF SERVICE

I certify that on this day I electronically filed this document and the Proposed Order Dismissing DPCA with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to:

Elizabeth A. Campbell
3826 24th Ave. W.
Seattle, WA 98199
Email: neighborhoodwarrior@gmail.com
Pro Se

G. Richard Hill, WSBA #8806
Katie J. Kendall, WSBA #48164
McCullough Hill Leary, PS
701 Fifth Avenue, Suite 6600
Seattle, WA 98104
Email: rich@mhseattle.com
kkendall@mhseattle.com
Attorneys for Respondent Seattle Public Schools

I also certify that on this day I sent a copy of this document via e-mail to the same individuals.

Dated June 29, 2020, at Seattle, Washington.

/s/ Alicia Reise
ALICIA REISE, Legal Assistant